

**IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF
TENNESSEE**

PATRICK PERKINS,
And others similarly situated,

Plaintiff,

vs.

CASE NO. 3:16-CV-0220

SPECTRACORP OF TENNESSEE, d/b/a
FANN MECHANICAL CO., and
RANDALL FANN,

Defendants.

DEFENDANTS' REPLY BRIEF ON DAMAGES

Come now the Defendants, by and through counsel, and submits this reply brief on damages as follows:

1. Back Pay. Defendants assert that Plaintiff is not entitled to back pay for any period prior to January 2016 as Plaintiff was not an employee or mis-categorized independent contractor. Any adverse action taken against Plaintiff as it related to payment, work, or living situation was taken with just cause as a direct result of Plaintiff's criminal actions.
2. Compensatory Damages. Defendants assert that Plaintiff is not entitled to compensatory damages. Plaintiff has failed to plead or otherwise present any facts which show or allege damages based upon emotional distress, anxiety, embarrassment and humiliation, inconvenience and loss of enjoyment of life.
3. Reinstatement and front pay. Defendants assert Plaintiff is not entitled to reinstatement or front pay. Plaintiff has not asked for reinstatement in the complaint nor any supplemental pleading. Additionally, front pay is inherently speculative as a measure of damages. Any claim for front pay is barred as a result of Plaintiff's wrongful actions in January 2016.
4. Interest. No response.
5. Unpaid Wages. No response.

6. Liquidated damages. Defendants assert Plaintiff is not entitled to liquidated damages. Defendants acted in good faith in regard to any interactions with Plaintiff and in reliance upon prior Department of Labor audits with regard to independent contractor classification. 29 U.S.C. § 216(b).
7. Attorneys' fees, costs and expenses. No response.

Respectfully submitted,

/s/ Johnathon C. Hershman
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CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the Notice of Appearance has been sent to the following via the District Court's electronic filing system:

Kerry E. Knox
117 South Academy Street
Murfreesboro, Tennessee 37130

Stephen W. Grace
1019 16th Avenue, South
Nashville, Tennessee 37212

On this 18th day of September, 2017.

/s/Johnathon C. Hershman
JOHNATHON C. HERSHMAN